

Appendix IX

State and Federal Fire Related Codes

This section reviews the state and federal laws, policies, and organizations, which shape the responses to wildland fires that occur in Idaho.

State of Idaho

Federal law grants authority to the federal government and are not allowed to encroach on the constitutional rights afforded to states. Likewise, the state may not make laws that encroach on the powers constitutionally delegated to the federal government.

The State Board of Land Commissioners, all the state-wide elected officials, makes the rules regarding state lands while staying within the bounds of legislated law. The Idaho Department of Lands (IDL) is an extension of the State Board of Land Commissioners (58-101, 58-119 Idaho Code) and, as such, is required to execute the functions of the State Board.

The Idaho Code discusses the responsibility and powers of the State Fire Marshal, an agency of the State Department of Insurance. The Fire Marshal is mandated to carry out the International Fire Code, to prevent fires, to protect life, and to oversee that buildings meet the standards set forth in the International Fire Code (41-253, 41-254, 41-255 Idaho Code). The Fire Marshal is also charged with keeping statistics of all the fires in the state. The agency is authorized by legislation to “Purchase necessary equipment and supplies, and incur any other reasonable and necessary expense in connection with or required for the purpose of carrying out the provisions of this act.” (41-255 Idaho Code)

The State Fire Marshal’s power extends to the chief (or his deputy) of each fire department or fire protective district organized under state law. In areas where there is no organized fire department, the county sheriff assumes the role of a deputy fire marshal in carrying out the provisions of the International Fire Code, and any additional regulations set forth by the State Fire Marshal. The International Fire Code prescribes regulations consistent with “recognized good practice for the safeguarding of life and property from hazards of fire and explosion . . . in the use or occupancy of buildings or premises.” (41-253 Idaho Code)

Title 38 of the Idaho State Statutes is devoted to Forestry, Forest Products, and Stumpage Districts. Idaho code allows for agreement between the Idaho Department of Lands (IDL) and federal agencies for the joint exercise of powers pursuant to certain conditions (58-104 Idaho Code). Those conditions (expressed in 67-2328 Idaho Code) overlap with what the federal agencies expect as far as reaching an agreement.

The Idaho Department of Lands is an extension of the State Board of Land Commissioners and has extensive authority in its approach towards wildland fire. The department has created an extensive wildland fire attack organization through out the state. It has the ability and authority to work with other wildfire fighting resources, in the event a fire exceeds the ability of the initial attack crew,² including wildland fire resources under mutual agreements.

2 More information regarding state code at the following URL:
<http://www2.state.id.us/adm/adminrules/rules/idapa20/20index.htm>

The department cooperates with federal and local governments in developing plans for and directing actions relating to the prevention and suppression of wildland fire in the rural areas of the state. The IDL State Forester has the authority to cooperate with private and public landowners, political subdivisions, private associations, and other agencies to protect forest resources on a statewide basis. At the local level, IDL Area Supervisors and Fire Wardens are empowered to make agreements with federal, city, county and rural fire department resources regarding fire management.

Key Points of Idaho State Policy

- The Fire Warden of each IDL Fire Protection District takes action on all forest and range fires, regardless of land ownership, which jeopardize lands protected by the Department. In doing so, forest and range fires must meet the criteria as set forth in Title 38, Chapter 1, Idaho Code. (IDL, FMH-800: Fire Control Policy; page 2 part b)
- IDL cooperates with federal and local governments in developing plans for, and directing activities relating to, the prevention and control of wildland fires in the rural areas of the state. (IDL, Mobilization Guide; page 2 par. 2)
- The State Forester, under general supervision of the State Board of Land Commissioners, is responsible for the protection of State forest and rangeland and cooperates with landowners, political subdivisions, private associations, and other agencies in protecting other forest and rangeland resources. (IDL, Mobilization Guide; page 2, point A)
- Upon the request of the State Forester, the United States Forest Service and Bureau of Land Management provides assistance under terms of cooperative agreements. Area Supervisors and Fire Wardens of IDL are delegated the authority to make local agreements relating to fire control matters involving USFS and BLM and other federal firefighting resources not already covered by cooperative agreements. (IDL, Mobilization Guide; page 2, point E)
- Area Supervisors and Fire Wardens are delegated the authority to make local agreements relating to fire control matters involving city, county and rural fire department resources. Agreements affecting statewide operations are coordinated through the State Fire Coordinator. (IDL, Mobilization Guide; page 3, point F)
- General guidelines for fire suppression priorities:
 1. Protection of life and property.
 2. Initial attack.
 3. Emerging fires in need of reinforcement to prevent escape.
 4. Large fires with resource values at risk.
 5. Other large fires.(IDL, Mobilization Guide; page 4)
- IDL develops and maintains mutual aid and other cooperative agreements (in writing where possible) with local and adjacent fire suppression agencies and county emergency planning committees, such as Local Emergency Planning Committees. (IDL, Mobilization Guide; page 8, point D)

The Mobilization Guide and other IDL policies and responsibilities are based on state statutory provisions found in Title 38, Chapter 1, of the Idaho Code. A review of that portion of Idaho

Code shows that all “forest” and “range” land within the State of Idaho is to be under the protection of either a State Forest Protection District or a Forest Protection Association.

Forest Protection Associations are affiliated or endorsed by IDL. The associations consist of a board of landowners who own forested lands and who agree to protect their own lands using money from additional property taxes. If a forest landowner does not belong to an association then IDL will assess a tax and assume the responsibility for patrol and suppression of any fires that start on or burn through that owner's property.

Idaho's wildland fire policy has several references to the ability of the state to make agreements with federal and local government fire organizations. The agreements are to be reduced to writing whenever possible. The statutory basis for these agreements makes them legally binding documents. Within these documents, there must be specific roles and duties for each party involved. The financial arrangements also must be thoroughly documented.

The State's personnel and equipment resources are limited to the nature of their wildland fire training. Lastly, the mobilization guide specifies that the agency provide training to its personnel using the Incident Command System (ICS). ICS is a federal system. This allows the state management teams to operate with their federal counterparts.

The responsibility of suppressing wildland fire on state lands ultimately falls to the IDL. The federal lands that intermingle with Idaho's state lands remain the responsibility of the federal government. However, with mutual aid agreements the IDL may support and work with the federal agencies, provided that the State's resource needs are being met.

The approach towards wildland fire on private forestlands in the state of Idaho is also clear. Private owners are given two choices; they can belong either to a State Forest Protective District or to a Forest Protective Association. This means that the lands are protected by the state or by a state assisted association of trained firefighters.

In the context of statutory language, “forest land” is defined as follows: any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property (38-101 Idaho Code). Unfortunately, there is no mention of how a homeowner, whose property does not fit into that definition, will be treated.

The federal wildfire agencies have legal obligations only for federal lands. The state government has the legal obligations to state lands and private lands that are classified as forest and rangelands that are adjacent to or intermingled with forest land.

Rural and city fire departments act as extensions of the State Fire Marshal's office. The Fire Marshal provides training for structural and automobile fire protection, as well as medical response duties that are part of emergency services. The Fire Marshal's mission is built around preventing and then fighting structural fires only. Some fire stations have crews that are trained to fight wildland fires, but it is provided through agreements with the Idaho State Department of Lands, not the Fire Marshal's office.

Federal Policy

The Bureau of Land Management, the National Park Service, the Bureau of Indian Affairs, Fish and Wildlife Service, and the US Forest Service are all members of the National Wildfire Coordinating Group (NWCG). This group provides a formalized system of agreement on substantive issues. Any agreed-on policies, standards or procedures are then implemented directly by each agency. In effect, the NWCG is a large umbrella that coordinates wildland fire matters between all members of the group.

The 2001 Federal Wildland Fire Management Policy is in Chapter 3 in a report entitled “Review and Update of the 1995 Federal Wildland Fire Management Policy.” The 2001 Wildland Fire Management Policy and the recommended changes in policy were accepted by the US Secretaries of Interior and Agriculture in 2001, bringing policy changes to the local agency level.

The National Fire Policy sets the policy for support among federal agencies for fire management, and encourages coordination with the individual states, tribes, and municipalities. The National Fire Policy places high priority on several other important topics. This interagency policy highlights and reiterates firefighter and public safety as the number one priority; the policy calls for an assessment of the consequences on safety, property, and cultural resources in choosing the appropriate response to wildland fire.

The National Fire Policy explains the role of federal wildland firefighters (including equipment) as that of only wildland firefighting, and in the special case of the wildland-urban interface use of federal personnel will be limited to exterior structural fire suppression only. The national policy forbids use of wildland firefighters to enter a house (or other structure).

Key Features of the 2001 Wildland Fire Policy:

The 2001 Wildland Fire Policy is the guiding source for how the federal government deals with wildland fire. The document covers a wide variety of issues: safety, protection priorities, planning for possible ignitions, and the use of fire for land management purposes; and communication and education of public and agency personnel.

The 2001 Wildland Fire Policy provides a loose framework that allows agencies at all levels of government (federal to local) to work together. Below are some listed points from the 2001 Wildland Fire Policy that briefly summarize what the document is about, and summarize what applies to the homeowner.

Point 1 - Safety

“Firefighter and public safety is the first priority. All Fire Management Plans and activities must reflect this commitment.”

Point 3 - Response to Wildland Fire

“Fire, as a critical natural process, will be integrated into land and resource management plans and activities on a landscape scale, and across agency boundaries. Response to wildland fire is based on ecological, social, and legal consequences of the fire. The circumstances, under which a fire occurs, and the likely consequences on firefighter and public safety and welfare, natural and cultural resources, and values to be protected, dictate the appropriate management response to the fire.”

Point 6 - Protection Priorities

“The protection of human life is the single, overriding priority. Setting priorities among protecting human communities and community infrastructure, other property and improvements, and natural and cultural resources will be based on the values to be protected, human health and safety, and the costs of protection. Once people have been committed to an incident, these human resources become the highest value to be protected.”

Point 7 – Wildland-Urban Interface

“The operational roles of federal agencies as partners in the Wildland-Urban Interface are wildland firefighting, hazardous fuels reduction, cooperative prevention and education, and technical assistance. Structural fire suppression is the responsibility of tribal, State, or local governments. Federal agencies may assist with exterior structural protection activities under formal Fire Protection Agreements that specify the mutual responsibilities of the partners, including funding.”

Point 14 - Interagency Cooperation

“Fire management planning, preparedness, prevention, suppression, fire use, restoration, and rehabilitation, monitoring, research, and education will be conducted on an interagency basis with the involvement of cooperators and partners.”

Organization

In terms of a firefighting organization, the federal government has come to terms with the challenges of multiple agencies, multiple land ownerships, and multiple objectives. Although each agency views wildland fire differently, through the interagency approach, the federal agencies have managed to establish a strong fire management organization.

The interagency effort has come about because it is difficult for any one agency to fund enough resources to protect all of its lands. By pooling their resources and carefully coordinating their efforts, the agencies can deal with the many fires that burn every year.

On the operational end of the National Wildfire Coordinating Group (NWCG) is the National Interagency Fire Center (NIFC) in Boise, Idaho. NIFC is a complex that houses all of the agencies in one place. NIFC provides safe, effective, and efficient policies and guidance, as well as technical and logistical support to the wildland fire management community.

All of the resources available on the national level are available for wildland fire suppression. Through a system of allocation and prioritizing, crews and resources are frequently moved around the United States to provide fire suppression services on federal lands as well as state lands as long as federal resource needs are being met.

The fire teams and crews ultimately carry out the wildland fire policy. These teams have the responsibility of ordering resources, asking for assistance, and for providing the fire suppression. They also determine whose land a fire is on and if it is a threat to people, to homes, or to other property.

The personnel within that fire management organization are wildland fire trained. The rules, regulations, and legal authority of the federal government are for the preservation of federally administered lands. With the exception of government compounds that have firefighters trained to deal with fires inside of buildings and other structures, federal wildland firefighters are not trained to deal with structural fires.

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